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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,998	02/25/2004	Hans-Richard Kretschmer	4001-1166	9771
<small>466</small> YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			<small>7590</small> EXAMINER HYUN, PAUL SANG HWA	
			<small>07/03/2008</small> ART UNIT 1797	PAPER NUMBER
			MAIL DATE 07/03/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,998

Applicant(s)

KRETSCHMER, HANS-RICHARD

Examiner

PAUL S. HYUN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 17, 18, 20 and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) 25-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 17, 18, 20, 23, 24, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

REMARKS

Claims 15, 17, 18, 20 and 23-34 are currently pending with claims 25-32 being withdrawn as being drawn to non-elected inventions. However, claims 25-27 are subject to rejoinder upon the allowance of the elected claims.

The claim rejections under 35 U.S.C. 112 cited in the previous Office action have been withdrawn in light of the amendments.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **15, 17, 18, 20, 23, 24, 33 and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pisharody et al. (US 6,824,974 B2) in view of Agrawal et al. (US 2003/0148401 A1).

Pisharody et al. disclose a sensor array (see Fig. 4B). The array comprises a plate 16 made from an insulating material (see line 52, col. 10), and inserts in the form of a first electrode 10 and a second electrode 12 spanning the entire thickness of the plate, each electrode comprising an electrically conductive receiving region (top) that is configured to hold nucleotides thereon (see lines 40-50, col. 2). Each electrode also comprises an electrical contact location (bottom) that can connect to conductors 205 and 206 (see Fig. 8). The array can further comprise a reference electrode disposed near each electrode pair (see lines 18-23, col. 16). The reference further discloses that the electrodes can be of any desired shape, including a concave shape (see lines 50-55, col. 3). Although Pisharody et al. disclose that the electrodes can be textured/corrugated (see lines 50-62, col. 3), the reference does not explicitly disclose that the corrugation can comprise a plurality of convexly curved surface areas having a radius between 20 and 500 microns.

Agrawal et al. disclose a substrate having a plurality of microfeatures that provide a high surface area for immobilizing biomolecules (see [0025]) wherein the substrate can be an electrode (see [0172]). The microfeatures are convex in shape (see Fig. 13), and have heights between 0.1 to 100 microns and cross-sectional dimensions between 0.01 to 500 square microns (see [0020]). In light of the disclosure of Agrawal et al. and given that the electrodes disclosed by Pisharody et al. are designed to support biomolecules, it would have been obvious to one of ordinary skill in the art to provide the electrodes disclosed by Pisharody et al. with the microfeatures disclosed by Agrawal et al.

With respect to claim 24, Pisharody et al. do not explicitly disclose that the reference electrode annularly surrounds each receiving region. However, the reference does disclose that the reference electrode can be placed in proximity of the pair of electrodes to sense the voltage applied thereto (see line 20, col. 16). Because a circle is the most optimal shape for accomplishing the feat, it would have been obvious to one of ordinary skill in the art to provide the reference electrode annularly around each electrode pair.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but they are moot in view of the new ground of rejection. The amendments to the claims necessitated a new ground of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL S. HYUN whose telephone number is (571)272-8559. The examiner can normally be reached on Monday-Friday 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul S Hyun/
Examiner, Art Unit 1797

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797